

REMARKS

The Office Action mailed September 25, 2007, rejected Claims 11-17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,199,204 to Donohue (hereinafter "Donohue"). Claims 1-10 and 25-29 were rejected under 35 U.S.C. § 103(a) as being obvious over Donohue in view of U.S. Patent No. 5,706,431 to Otto (hereinafter "Otto").

With this response, Claims 25-29 are canceled. Claim 30 is newly added. Thus, Claims 1-17 and 30 are now pending in the application.

In view of the amendments to the claims and for the reasons set forth below, applicants traverse the rejections and request reconsideration and allowance of the pending claims.

Rejections of Claims 11-17 Under 35 U.S.C. § 102(b)

Claim 11

Applicants respectfully traverse the rejection of Claim 11 as being anticipated by Donohue. Claim 11 recites the following:

11. An update service node for distributing software updates to client computers and to child update service nodes, wherein the update service node is organized in a hierarchy of a plurality of similarly configured update service nodes, the update service node comprising:

an update store for storing software updates;

an update web service through which the update service node obtains software updates from a parent update service node over a communication network, and through which the update service node distributes software updates to child update service nodes in the hierarchy over the communication network;

an administration application programming interface (API) through which an administrator—establishes rules for distributing software updates to its child update service nodes; and

a child update module for determining which software updates are available to be distributed to its child update service nodes according to the established rules.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESSTM
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

Applicants submit that Donohue fails to disclose "*an administration application programming interface (API) through which an administrator establishes a set of rules for distributing software updates to its child update service nodes.*"

The Office Action points to Donohue, Col. 7, lines 34-45 as disclosing an administration API through which an establishes rules for distributing software updates to its child update service nodes. Applicants assert that Donohue makes no such disclosure.

The Office Action cites "registration" as the functional equivalent of an administration API, apparently suggesting that writing "registration" information corresponding to an updater component into a system registry during installation of the updater component is the functional equivalent of an administration API "through which an administrator establishes a set of rules for distributing software updates to its child update service nodes." The Office Action's assertion fails for several reasons: (a) one skilled in the art would appreciate that writing registration information into registration files is patentably distinct from an application programming interface – the one (the written registration information) being static data whereas an API is an interactive feature; (b) one skilled in the art readily appreciates that writing information to a file (or files) as part of an installation process is substantially and patentably distinct from interacting with a user/administrator; and (c) the registration information written to files is directed to the computer upon which the software is installed, not directed to rules for distributing software updates to child update service nodes.

Indeed, while Donohue may disclose writing "registration" information into files as part of an automatic installation process, nothing in Donohue discloses "*an administration application programming interface (API) through which an administrator establishes a set of rules for distributing software updates to its child update service nodes,*" as recited in Claim 11.

As Donohue fails to disclose each and every element of Claim 11, applicants submit that the 35 U.S.C. § 102(b) is in error, should be withdrawn, and the claim allowed.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206 682 8100

Claims 12-17

Claims 12-17 depend from independent Claim 11. As independent Claim 11 is in condition for allowance, applicants submit that dependent Claims 12-17 are also in condition for allowance and request that the 35 U.S.C. § 102(b) rejections be withdrawn and the claims allowed.

Rejections of Claims 1-10 Under 35 U.S.C. § 103(a)

Claim 1

Applicants respectfully traverse the rejection of Claim 1 as being anticipated by Donohue. Claim 1 reads as follows:

1. A software update distribution system for distributing a software update over a communication network for distribution to client computers, comprising:

a root update service node; and

a plurality of child update service nodes;

wherein the root update service node and the at least one child update service node are organized in a hierarchical manner such that the root update service node is a parent update service node to at least one child update service node, wherein each update service node, except the root update service node, has a parent update service node, wherein each of the plurality of child update service nodes is configured to operate as a parent update service node to another child update service node, and includes ***an administration application programming interface (API) through which an administrator establishes a set of rules for distributing software updates from the update service node to its child update service nodes,*** and wherein at least one child update service node of the plurality of child update service nodes is a parent update service node to another child update service node of the plurality of child update service nodes; and

wherein the root update service node obtains a software update from a software provider, and wherein each of the at least one child update service nodes obtains the software update for distribution to client computers by obtaining the software update from its parent software update node.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

Applicants submit that Donohue and Otto, alone and in combination fail to disclose "***an administration application programming interface (API) through which an administrator establishes a set of rules for distributing software updates to its child update service nodes,***" as recited in Claim 1.

The Office Action points to Donohue, Col. 7, lines 34-45 as disclosing an administration API through which an establishes rules for distributing software updates to its child update service nodes. Applicants assert that Donohue makes no such disclosure. Indeed, as discussed above in regard to Claim 11, while Donohue may disclose writing information to a registration file as part of and during an installation process, Donohue fails to disclose "***an administration application programming interface (API) through which an administrator establishes a set of rules for distributing software updates from the update service node to its child update service nodes.***"

As set forth in the M.P.E.P. § 2141(III), "the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." Indeed, the Supreme Court has stated that the analysis supporting a rejection under 35 U.S.C. § 103 should be made explicit. As the Office Action erroneously points to Donohue as disclosing "an administration application programming interface (API) through which an administrator establishes a set of rules for distributing software updates from the update service node to its child update service nodes," applicants submit that the Office Action has failed to clearly articulate the reasons why the present claim would be obvious in view of Donohue and Otto. Accordingly, applicants request that the 35 U.S.C. § 103(a) rejection of Claim 1 be withdrawn and the claim allowed.

Claims 2-10

Claims 2-10 depend from independent Claim 1. As independent Claim 1 is in condition for allowance over Donohue and Otto, applicants submit that dependent Claims 2-10 are also in

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESSTMLLC
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

condition for allowance and request that the 35 U.S.C. § 103(a) rejections be withdrawn and the claims allowed.

Claim 30

While differing in scope, newly added Claim 30 recites elements similar to those found in Claims 1 and 11. In particular, independent Claim 30 recites, *inter alia*:

wherein each of the plurality of child update service nodes includes an administration application programming interface (API) through which an administrator establishes a set of rules for distributing software updates from the update service node to its child update service nodes

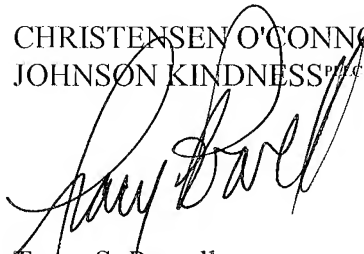
As discussed above in regard to Claims 1 and 11, Donohue fails to disclose an administration API. Moreover, Donohue and Otto, in combination also fail to disclose the administration API as recited in Claim 30. Accordingly, applicants submit that Claim 30 is in condition for allowance and requests consideration and allowance of the same.

CONCLUSION

Applicants submit that Claims 1-17 and 30 are in condition for allowance over the cited and applied references. Reconsideration and allowance of the pending claims is requested. If the Examiner has any questions regarding this application, the Examiner is invited to contact the applicants representative at the number below.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESSTM



Tracy S. Powell
Registration No. 53,479
Direct Dial No. 206.695.1786

TSP:lal

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESSTM
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100